

City of San Diego
Community and Economic Development Department

CRITERIA FOR NATIONAL OBJECTIVES

The following criteria shall be used to determine whether a CDBG assisted activity complies one or more of the national objectives, as required:

(a) **ACTIVITIES BENEFITTING LOW AND MODERATE INCOME PERSONS.**

Activities meeting the criteria in paragraph (a)(1), (2), (3), or (4) of this section as applicable, will be considered to benefit low and moderate income persons unless there is substantial evidence to the contrary. In assessing any such evidence, the full range of direct effects of the assisted activity will be considered. (The recipient shall appropriately ensure that activities that meet these criteria do not benefit moderate-income persons to the exclusion of low-income persons.)

(1) **AREA BENEFIT ACTIVITIES.**

- (i) An activity, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low and moderate-income persons. Such an area need not be coterminous with census tracts or other officially recognized boundaries but must be the entire area served by the activity. An activity that serves an area that is not primarily residential in character shall not qualify under this criterion.
- (ii) For purposes of determining qualification under this criterion, activities of the same type that serve different areas will be considered separately on the basis of their individual service area.
- (iii) Activities meeting the requirements of paragraph (d)(5)(i) of this section may be considered to qualify under this paragraph, provided that the area covered by the strategy is either a Federally-designated Empowerment Zone or Enterprise Community or primarily residential and contains a percentage of low and moderate income residents that is no less than 51 percent. Activities meeting the requirements of paragraph (d)(6)(i) of this section may also be considered to qualify under paragraph (a)(1) of this section.

(2) **LIMITED CLIENTELE ACTIVITIES.**

- (i) An activity which benefits a limited clientele, at least 51 percent of whom are low or moderate income persons. (The following kinds

of activities may not qualify under (a)(2) of this section: activities, the benefits of which are available to all the residents of an area; activities involving the acquisition, construction or rehabilitation of property for housing; or activities where the benefit to low and moderate income persons to be considered is the creation or retention of jobs, except as provided in paragraph (a)(2)(iv) of this section.) To qualify under this paragraph, the activity must meet one of the following tests:

- (A) Benefit a clientele who are generally presumed to be principally low and moderate-income persons. Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low- and moderate-income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, Persons living with AIDS, and migrant farm workers; or
 - (B) Require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low and moderate income limit; or
 - (C) Have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons; or
 - (D) Be of such nature and be in such location that it may be concluded that the activity's clientele will primarily be low and moderate income persons.
- (ii) An activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly or adults meeting the Bureau of the Census Current Population Reports definition of "severely disabled" will be presumed to qualify under this criterion if it is restricted to the extent practicable, to the removal of such barriers by assisting:
- (A) The reconstruction of a public facility or improvement, or portions thereof, that does not qualify under paragraph (a)(1) of this section;
 - (B) The rehabilitation of a privately owned nonresidential building or improvement that does not qualify under paragraph (a)(1) or (4) of this section;
 - (C) The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and that does not qualify under paragraph (a)(3) of this section.

- (iii) A microenterprise assistance activity carried out in accordance with the provisions of 570.201(o) with respect to those owners of microenterprises and persons developing microenterprises assisted under the activity during each program year who are low- and moderate-income persons. For purposes of this paragraph, persons determined to be low and moderate income may be presumed to continue to qualify as such for up to a three-year period.
- (iv) An activity designed to provide job training and placement and/or other employment services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, in which the percentage of low- and moderate-income persons assisted is less than 51 percent may qualify under this paragraph in the following limited circumstance:
 - (A) In such cases where such training or provision of supportive services assists business(es), the only use of CDBG assistance for the project is to provide the job training and/or supportive services; and
 - (B) The proportion of the total cost of the project borne by CDBG funds is no greater than the proportion of the total number of persons assisted who are low or moderate income.

(3) **HOUSING ACTIVITIES.**

An eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low and moderate-income households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property, conversion of non-residential structures, and new housing construction. If the structure contains two dwelling units, at least one must be so occupied, and if the structure contains more than two dwelling units, at least 51 percent of the units must be so occupied. Where two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. Where housing activities being assisted meet the requirements of paragraph 570.208(d)(5)(ii) or (d)(6)(ii) of this section, all such housing may also be considered for this purpose as a single structure. For rental housing, occupancy by low and moderate-income households must be at affordable rents to qualify under this criterion. The recipient shall adopt and make public its standards for determining "affordable rents" for this purpose. The following shall also qualify under this criterion:

- (i) When less than 51 percent of the units in a structure will be occupied by low and moderate-income households, CDBG assistance may be provided in the following limited circumstances:

- (A) The assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project;
 - (B) Not less than 20 percent of the units will be occupied by low and moderate income households at affordable rents; and
 - (C) The proportion of the total cost of developing the project to be borne by CDBG is no greater than the proportion of units in the project that will be occupied by low- and moderate-income households.
- (ii) When CDBG funds are used for housing services eligible under 570.201(k), such funds shall be considered to benefit low- and moderate-income persons if the housing units for which the services are provided are HOME-assisted and the requirements at 24 CFR 92.252 or 92.254 are met.

(4) **JOB CREATION OR RETENTION ACTIVITIES.**

An activity designed to create or retain permanent jobs where at least 51 percent of the jobs, computed on a full time equivalent basis, involve the employment of low- and moderate-income persons. To qualify under this paragraph, the activity must meet the following criteria:

- (i) For an activity that creates jobs, the recipient must document that at least 51 percent of the jobs will be held by, or will be available to, low and moderate-income persons
- (ii) For an activity that retains jobs, the recipient must document that the jobs would actually be lost without the CDBG assistance and that either or both of the following conditions apply with respect to at least 51 percent of the jobs at the time the CDBG assistance is provided:
 - (A) The job is known to be held by a low or moderate income person;
or
 - (B) The job can reasonably be expected to turn over within the following two years and that steps will be taken to ensure that it will be filled by, or made available to, a low or moderate-income person upon turnover.
- (iii) Jobs that are not held or filled by a low or moderate-income person may be considered to be available to low and moderate-income persons for these purposes only if:

- (A) Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and
 - (B) The recipient and the assisted business take actions to ensure that low and moderate income persons receive first consideration for filling such jobs.
- (iv) For purposes of determining whether a job is held by or made available to a low or moderate income person, the person may be presumed to be a low or moderate income person if:
 - (A) He/She resides within a census tract (or block numbering area) either:
 - (1) Meets the requirements of paragraph (a)(4)(v) of this section; or
 - (2) Has at least 70 percent of its residents who are low and moderate income persons; or
 - (B) The assisted business is located in a census tract (or block numbering area) that meets the requirements of paragraph (a)(4)(v) of this section and the job under consideration is to be located within that census tract.
- (v) A census tract (or block group numbering area) qualifies for the presumptions permitted under paragraphs (a)(4)(iv)(A)(1) and (B) of this section if it is either part of a Federally designated Empowerment Zone or Enterprise Community or meets the following criteria:
 - (A) It has a poverty rate of at least twenty percent as determined by the most recently available decennial census information;
 - (B) It does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract has a poverty rate of at least 30 percent as determined by the most recently available decennial census information; and
 - (C) It evidences pervasive poverty and general distress by meeting at least one of the following standards:
 - (1) All block groups in the census tract have a poverty rate of at least 20 percent;
 - (2) The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent; or

- (3) Upon the written request of the recipient, HUD determines that the census tract exhibits other objectively determinable signs of general distress such as high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.
- (vi) As a general rule, each assisted business shall be considered to be separate activity for purposes of determining whether the activity qualifies under this paragraph, except;
 - (A) In certain cases such as where CDBG funds are used to acquire, develop, or improve a real property (e.g., a business incubator or industrial park) the requirement may be met by measuring jobs in the aggregate for all the businesses which locate on the property, provided such businesses are not otherwise assisted by CDBG funds.
 - (B) Where CDBG funds are used to pay for staff and overhead costs of a subrecipient making loans to businesses exclusively from non-CDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during each program year.
 - (C) Where CDBG funds are used by a recipient or subrecipient to provide technical assistance to businesses, this requirement may be met by aggregating the jobs created or retained by all of the businesses receiving technical assistance during each program year.
 - (D) Where CDBG funds are used for activities meeting the criteria listed at 570.209(b)(2)(v), this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during the program year, except as provided in paragraph (d)(7) of this section.
 - (E) Where CDBG funds are used by a Community Development Financial Institution to carry out activities for the purpose of creating or retaining jobs, this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during the program year, except as provided at paragraph (d)(7) of this section.

- (F) Where CDBG funds are used for public facilities or improvements which will result in the creation or retention of jobs by more than one business, this requirement may be met by aggregating the jobs created or retained by all such businesses as a result of the public facility or improvement.
- (1) Where the public facility or improvement is undertaken principally for the benefit of one or more particular businesses, but where other business might also benefit from the assisted activity, the requirement may be met by aggregating only the jobs created or retained by those businesses for which the facility/improvement is principally undertaken, provided that the cost (in CDBG funds) for the facility/improvement is less than \$10,000 per permanent full-time equivalent job to be created or retained by those businesses.
- (2) In any case where the cost per job to be created or retained (as determined under paragraph (a)(4)(v)(C)(1) of this section) is \$10,000 or more, the requirement must be met by aggregating the jobs created or retained as a result of the public facility or improvement by all businesses in the service area of the facility/improvement. this aggregation must include businesses which, as a result of the public facility/improvement, locate or expand in the service area of the public facility/improvement between the date the recipient identifies the activity in its final statement and the date the date one year after the physical completion of the facility/improvement. In addition, the assisted activity must comply with the public benefit standards at 570.209(b).

(b) **ACTIVITIES WHICH AID IN THE PREVENTION OR ELIMINATION OF SLUMS OR BLIGHT.**

Activities meeting one or more of the following criteria, in the absence of substantial evidence to the contrary, will be considered to aid in the prevention or elimination of slums or blight:

(1) **ADDRESS SLUMS OR BLIGHT ON AN AREA BASIS.**

An activity will be considered to address prevention or elimination of slums or blight in an area if:

- (i) The area, delineated by the recipient, meets a definition of a slum, blighted, deteriorated or deteriorating area under State or local law;

- (ii) Throughout the area there is a substantial number of deteriorated or deteriorating buildings or public improvements are in a general state of deterioration;
- (iii) Documentation is maintained by the recipient on the boundaries of the area and the condition which qualified the area at the time of its designation; and
- (iv) The assisted activity addresses one or more of the conditions which contributed to the deterioration of the area. Rehabilitation of residential buildings carried out in an area meeting the above requirements will be considered to address the area's deterioration only where each such building rehabilitated is considered substandard under local definition before rehabilitation, and all deficiencies making a building substandard have been eliminated if less critical work on the building is undertaken. At a minimum, the local definition for this purpose must be such that the buildings that it would render substandard would also fail to meet the housing quality standards for the Section 8 Housing Assistance Payments Program-Existing Housing (24 CFR 882.109).

(2) **ADDRESS SLUMS OR BLIGHT ON A SPOT BASIS.**

Acquisition, clearance, relocation, historic preservation and building rehabilitation activities which eliminate specific conditions of blight or physical decay on a spot basis not located in a slum or blighted area will meet this objective. Under this criterion, rehabilitation is limited to the extent necessary to eliminate specific conditions detrimental to public health and safety.

(c) **ACTIVITIES DESIGNED TO MEET COMMUNITY DEVELOPMENT NEEDS HAVING A PARTICULAR URGENCY.**

In the absence of substantial evidence to the contrary, an activity will be considered to address this objective if the recipient certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the recipient is unable to finance the activity on its own, and that other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the certification by the recipient.

(d) **ADDITIONAL CRITERIA.**

- (1) Where the assisted activity is acquisition of real property, a preliminary determination of whether the activity addresses a national objective may be based on the planned use of the property after acquisition. A final determination shall be based on the actual use of the property, excluding any short-term, temporary use. Where the acquisitions for the purpose of clearance which will eliminate specific conditions of blight or physical decay, the clearance activity shall be considered the actual use of the property. However, any subsequent use or disposition of the cleared property shall be treated as a "change of use" under 570.505.
- (2) Where the assisted activity is relocation assistance that the recipient is required to provide, such relocation assistance shall be considered to address the same national objective as is addressed by the displacing activity. Where the relocation is voluntary on the part of the grantee the recipient may qualify the assistance either on the basis of the national objective addressed by the displacing activity or on the basis that the recipients of the relocation assistance are low- and moderate-income persons.
- (3) In any case where the activity undertaken for the purpose of creating or retaining jobs is a public improvement and the area served is primarily residential, the activity must meet the requirements of paragraph (a)(1) of this section as well as those of paragraph (a)(4) of this section in order to qualify as benefiting low- and moderate-income persons.
- (4) CDBG funds expended for planning and administrative costs under 570.205 and 570.206 will be considered to address the national objectives.
- (5) Where the grantee has elected to prepare an area revitalization strategy pursuant to the authority of 91.215(e) of this title and HUD has approved the strategy, the grantee may also elect the following options:
 - (i) Activities undertaken pursuant to the strategy for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of this paragraph under the criteria at paragraph (a)(1)(vii) of this section in lieu of the criteria at paragraph (a)(4) of this section; and
 - (ii) All housing activities in the area for which, pursuant to the strategy, CDBG assistance is obligated during the program year may be considered to be a single structure for purposes of applying the criteria at paragraph (a)(3) of this section.